

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

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CLERK, U.S. DISTRICT COURT
BY [Signature]

DELL INC.,)
)
)
Plaintiff,)
)
)
v.) Civil Action No. A05CA658 SS
TERRASHARE LLC, MATTHEW F.)
CHENG, JOEL WILSON, MONIKER)
PRIVACY SERVICES, and JOHN DOE,)
)
Defendants.

COMPLAINT

Plaintiff, Dell Inc. (hereinafter “Dell”) as its Complaint against Defendants, Terrashare LLC, Matthew F. Cheng, Joel Wilson, Moniker Privacy Services and John Doe, alleges the following:

NATURE OF THE ACTION

1. Dell brings this action against Defendants for trademark infringement under the Lanham Act, 15 U.S.C. § 1114(1); cybersquatting under the Anticybersquatting Consumer Protection Act, 15 U.S.C. § 1125(d); trademark dilution under 15 U.S.C. § 1125(c); unfair competition under 15 U.S.C. §1125(a); trademark dilution under Texas Bus. & Com. Code § 16.29 and Texas common law; and unfair competition, breach of contract, unjust enrichment; and civil conspiracy under Texas common law. These claims arise from Defendants’ unauthorized and wrongful registration and use of various domain names, which infringe and dilute Dell’s famous DELL and WWW.DELL.COM trademarks and are otherwise confusingly

similar to trademarks in which Dell has rights, as well as Defendants' ongoing intentional breach of agreements with Dell.

JURISDICTION

2. This Court has subject matter jurisdiction because (a) this is an action arising under the Trademark Laws of the United States joined with related state law claims, jurisdiction being conferred by 15 U.S.C. § 1121 and 28 U.S.C. § 1338(a) and (b), and (b) this is an action between citizens of different states in which a citizen of a foreign state may be an additional party and in which the matter in controversy exceeds \$75,000, exclusive of interest and costs, jurisdiction being conferred by 28 U.S.C. § 1332(a). Jurisdiction over the state and common law claims also arises under 28 U.S.C. § 1367.

THE PARTIES

3. Dell is a Delaware corporation with a principal place of business at One Dell Way, Round Rock, Texas 78682.

4. On information and belief, Defendant, Terrashare LLC, is a New Jersey corporation with its principal place of business at 830 Bear Tavern Road, West Trenton, New Jersey 08628 ("Terrashare").

5. On information and belief, Defendant, Matthew F. Cheng, is an individual residing at 6124 Madison Street, West New York, NJ 07093 ("Cheng").

6. On information and belief, Defendant, Joel Wilson, is an individual with an address at 113 Pavonia Avenue #301, Jersey City, NJ 07310 ("Wilson"). Wilson identified himself to Dell as the contact person for Terrashare when Terrashare signed up as an Affiliate as noted below.

7. On information and belief, Cheng is a principal of Terrashare and, in conjunction with Wilson, has directed and controlled the actions of Terrashare complained of in this action. On information and belief, Cheng also does business in his individual capacity using Terrashare as a d/b/a.

8. On information and belief, Defendant, Moniker Privacy Services, is a foreign entity of unknown structure, having identified itself as having a place of business in St. Michael, Barbados (“Moniker Privacy Services”). Moniker Privacy Services is the current registrant of thirteen of the domain names at issue in this action, namely **dell4sale.com**, **dellbusiness.com**, **dellcomp.com**, **delfactoryoutlet.com**, **dellforme.com**, **dellfourme.com**, **dellhome.com**, **dellinspiron.com**, **delll4me.com**, **dellonlineoutlet.com**, **dellsystem.com**, **dellweboutlet.com**, and **wwwdelloutlet.com**.

9. On information and belief, Defendant, John Doe is the registrant of one of the domain names at issue, **wwwdellradio.com**, who has obscured his identity by providing no publicly available identifying information to the domain name registrar through which he has registered and maintained that domain name.

BACKGROUND AND GENERAL ALLEGATIONS

A. Dell Inc.

Dell and its Famous Marks

10. In 1984, Dell began marketing and selling personal computers. In 1987, Dell changed its corporate name to Dell Computer Corporation and began marketing, selling and distributing its products and services under its trademark DELL. In 2003, Dell changed its name to Dell Inc.

11. Dell is a leading marketer of computer systems and other electronics products.

Dell sells its DELL products and services directly to consumers and businesses in over 100 countries. For the last fiscal year Dell had revenue of almost \$50 billion and, for several years, it has been the world's largest direct seller of computer systems.

12. Dell's product and service offerings have included, but have not been limited to, computer hardware, software and peripherals, consumer electronics, and computer-related consulting, installation, networking, maintenance, leasing, warranty and technical support services ("Products and Services").

13. Dell has registered its trademark DELL and variations of this mark in more than 180 countries worldwide, and DELL owns more than thirty United States federal trademark registrations containing the term DELL, including but not limited to the following:

<u>MARK</u>	<u>GOODS AND SERVICES</u>	<u>REG. NO.</u>
DELL	Computers and computer peripherals, namely monitors, keyboards, printers, mice, co-processors, modems, hard and floppy disk drives, tape drives, cards and memory add-ons, memory boards and chips, cables and connectors, operating software and instruction manuals sold together as a unit.	1,616,571
DELL	Custom manufacture of computers for others.	2,236,785
DELL	Computer peripheral, namely computer projectors	2,794,705
DELL	Maintenance and repair of computer hardware; installation of computer networks; installation of computer systems	2,806,769
DELL	Technical support services, troubleshooting of computer hardware and software problems; consulting services in the field of design, selection, implementation and use of computer hardware and software systems for others	2,806,770

WWW.DELL.COM	Computers, computer peripheral devices, namely, monitors, keyboards, printers, mouses, co-processors, modems, hard and floppy disk drives, tape drives, CD-ROM drives, DVD drives, electronic or magnetic cards for memory add-on and memory boards and chips, data storage units, namely, fibre channel drives and SCSI (small computer system interface) drives, cables and connectors, parts and fittings for all of the above, all for use with computers; computer operating software and instruction manuals all sold together as a unit.	2,390,851
DELL4ME	Providing multiple-user access to a global computer information network; and Technical support services, namely, customer assistance and troubleshooting of computer hardware and software problems via telephone and a global computer network.	2,425,829
DELL (Stylized Letters)	Computers and parts therefor.	1,860,272
DELL and Design Computers	Computers.	1,498,470
DELL and Design (the "Aviator design")	Computers, computer peripheral devices and parts and fittings therefor; monitors, keyboards, printers, mouses, co-processors, modems, hard and floppy disk drives, tape drives, CD-ROM drives, DVD-drives, electronically encoded or magnetically encoded cards and memory add ons, memory boards and chips, cables and connectors, all for use with computers; computer operating software; electronic computer manuals sold as a unit.	2,817,366
DELL DIMENSION	Computers and computer peripherals, namely, monitors, keyboards, printers, mice, co-processors, modems, hard and floppy disk drives, tape drives, cd-rom drives, cards and memory add-ons, memory boards, chips, cables and connectors, operating software and instruction manuals sold together as a unit.	2,030,084
DELL PRECISION	Computers, computer peripheral devices and parts and fittings therefor; monitors, keyboards, printers, mouses, co-processors, modems, hard and floppy disk drives, tape drives, CD-ROM drives, data storage units, and electronic or magnetic cards and memory add ons, memory boards and chips, cables and connectors, all for use with computers.	2,284,782

DELL AXIM	Computer hardware, handheld computers, personal digital assistant (PDA), electronic organizers, electronic notepads, computer peripherals, namely, modems, memory cards, compact flash cards; blank smart media cards, batteries, battery chargers, digital audio recorders, and digital audio playback units, mp3 players, headphones, handheld computer/PDA carry bags, power adapters, car adapters, handheld computer keyboards, scanners, cradles for recharging and connecting to other devices and peripherals, cables and connectors for the above; and instruction manuals sold therewith as a unit for all the aforesaid goods	2,800,354
DELL DOLLARS	Promoting the use and sale of credit card accounts of others through the administration of a credit card incentive award program.	2,373,817
DELL FINANCIAL SERVICES	Leasing of computers	2,333,902
DELL	Credit card services	2,527,880
DELL OPENMANAGE	Computer software for the setup and management of computer server systems	2,715,756
DELL PICTURE STUDIO	Computer software, namely, digital, photo applications for organizing, manipulating and editing images; capturing, retrieving, storing and presenting digital photos	2,578,777
DELL PREFERRED ACCOUNT	Credit card services	2,757,178

14. Each of these registrations is valid, subsisting, and owned by Dell. Registration Nos. 1,498,470, 1,616,571, 1,860,272 and 2,030,084 are incontestable pursuant to 15 U.S.C. §§ 1064 and 1115(b).

15. Since prior to the acts of Defendants complained of herein, Dell's DELL marks have constituted, and Dell has owned, a family of DELL marks.

16. Since long prior to Defendants' acts complained of herein, Dell has used its INSPIRON mark in connection with marketing computer systems, and has obtained the following federal registration, which is valid, subsisting, owned by Dell, and incontestable pursuant to 15 U.S.C. §§ 1064 and 1115(b).

INSPIRON	computers, computer peripherals and parts therefor, monitors, keyboards, printers, mouses, co-processors, modems, hard and floppy disk drives, tape drives, CD-ROM drives, electronically encoded or magnetically encoded cards and memory add on chips or cards, memory boards and chips, cables and connectors, all for use with computers, computer operating software and instruction manuals all sold together as a unit.	2,254,835
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17. Over the years, Dell has invested heavily in marketing under its family of DELL marks and INSPIRON mark (collectively, "DELL Marks"), devoting hundreds of millions of dollars to advertising and promoting its products and services through many media in many countries. Last year alone, Dell expended approximately \$500 million in advertising and promotion under or in connection with its DELL Marks. The media Dell has used include, but are not limited to, television, radio, magazines, newspapers and the Internet.

18. As a consequence of Dell's marketing and sales success, Dell and its DELL Marks are and have been famous in the United States and in many other countries.

Dell's Website and Internet Sales Success

19. Dell is and has been a pioneer and leader in using the Internet to market and sell its Products and Services.

20. For many years and since long prior to Defendants' acts complained of herein, Dell has supported its online marketing and sales efforts and sold its Products and Services through a number of websites and hundreds of related domain names, including but not limited to **dell.com**, **wwwdell.com**, **dell4me.com**, **dellcomputer.com**, **dellcomputers.com**, **delloutlet.com**, and **dellradio.com** (collectively, "Dell Websites").

21. Millions of customers visit the Dell Websites annually, making it one of the Internet's most successful online businesses.

22. Dell generates more than half of its revenue in the United States from sales over the Internet.

23. Dell's marketing and sales efforts over the Internet using its Dell Websites have been extremely successful, and since prior to Defendants' acts complained of herein, Dell has been known in Texas and throughout the United States as a premier marketer and seller of computer products and services over the Internet.

Dell's Affiliate Programs

24. As part of its Internet marketing and sales efforts, Dell has created and instituted programs whereby individuals and companies (collectively, "Affiliates") can earn commissions for referring Internet shoppers to the Dell Websites.

25. Dell's affiliate programs include the "Dell Home Systems U.S. Affiliate Program" ("DHS Affiliate Program") and the "Dell Business Systems U.S. Affiliate Program" ("BSD Affiliate Program").

26. As part of their enrollment in the DHS Affiliate Program, Affiliates must agree to certain terms and conditions contained in the "Dell Home Systems U.S. Affiliates Program Agreement" ("DHS Affiliate Agreement"). A true and correct copy of the DHS Affiliate Agreement is attached as Exhibit A.

27. The DHS Affiliate Agreement prohibits Affiliates from using domain names that contain the word "Dell" or variations or misspellings in connection with an Affiliate's participation in the DHS Affiliate Program.

28. Dell has hired LinkShare Corporation ("LinkShare") to manage and administer the DHS Affiliate Program, and to issue payment to participating affiliates on Dell's behalf.

LinkShare is familiar with the terms of the DHS Affiliate Agreement and is responsible for ensuring that Affiliates comply with those terms.

29. As part of their enrollment in the BSD Affiliate Program, Affiliates must agree to certain terms and conditions contained in the “Dell Business Systems U.S. Affiliates Program Agreement” (“BSD Affiliate Agreement”). A true and correct copy of the BSD Affiliate Agreement is attached as Exhibit B.

30. The BSD Affiliate Agreement prohibits Affiliates from using domain names that contain the word “Dell” or variations or misspellings in connection with an Affiliate’s participation in the BSD Affiliate Program.

31. Dell has hired BeFree, a division of Commission Junction (“BeFree”) to manage and administer the BSD Affiliate Program, and to issue payment to participating affiliates on Dell’s behalf. BeFree is familiar with the terms of the BSD Affiliate Agreement and is responsible for ensuring that Affiliates comply with those terms.

32. As part of Dell’s affiliate programs, the operators of unaffiliated websites are given permission to display banner ads for Dell; the ads are directed at and link to Dell websites. When an Internet shopper visits the Dell Websites via any of these banner ads and purchases products from Dell, the user is temporarily redirected to either a Linkshare or BeFree webpage. Visiting that webpage allows Linkshare or BeFree to place a “cookie” on that Internet shopper’s computer. Each cookie has an identification number that allows the program administrator to determine which Affiliate referred the shopper to Dell, and for that Affiliate to receive credit for the referral and to receive a commission based on a percentage of the Internet shopper’s purchase.

33. Dell pays Linkshare and BeFree fees to administer the respective affiliate programs that are based on a percentage of all commissions paid to Affiliates and the number of visitors referred to the Dell site by Affiliates, respectively.

B. Defendants' Intentional and Malicious Wrongful Acts

34. On information and belief, subsequent to Dell's acquisition of strong rights in its DELL Marks, and after Dell's DELL Marks had become famous, the Defendants registered and began using numerous domain names that contain Dell's famous DELL mark or other DELL Marks, or colorable imitations, simulations or typographical variations thereof. The domain names that Defendants have registered and/or used include, but are not limited to, **dell4sale.com**, **dellbusiness.com**, **dellcomp.com**, **dellfactoryoutlet.com**, **dellforme.com**, **dellfourme.com**, **dellhome.com**, **dellinspiron.com**, **dell4me.com**, **dellonlineoutlet.com**, **dellsystem.com**, **dellweboutlet.com**, **wwwdelloutlet.com**, and **wwwdellradio.com** (collectively, "Domains").

35. Each of the Domains is identical or confusingly similar to, or dilutive of and likely to dilute, the famous DELL Marks.

36. Defendants registered and used the Domains with full knowledge, and in willful disregard of Dell's DELL Marks, and with the intent to obtain a commercial advantage that Defendants otherwise would not have.

37. On or about July 2001, Defendants and/or their predecessors in interest enrolled in the Dell DHS Affiliate Program and thereby agreed to the terms and conditions of that program.

38. On or about November 2002, Defendants and/or their predecessors in interest enrolled in the Dell BSD Affiliate Program and thereby agreed to the terms and conditions of that program.

39. On information and belief, Defendants have used several of the Domains through the DHS Affiliate Program and the BSD Affiliate Program to redirect consumers who are looking for Dell Websites but who type an incorrect domain name or make a typographical or spelling error to websites controlled by Defendants (collectively, “Defendants’ Websites”). Defendants’ Websites cause a cookie to be deposited on the consumer’s computer and then automatically redirect consumers to a Dell Website. The redirection occurs almost instantaneously, and in many cases happens without the consumer’s knowledge. Defendants then receive credit for “referring” that particular customer, and when that customer makes a purchase from the Dell website, Defendants receive a commission on the sale.

40. On information and belief, Defendants have engaged in widespread registration and use of domain names consisting of variations or misspellings of well-known trademarks and domain names. For example, Defendants have registered **wwwbose.com**, **wwwsonystyle.com**, **dicksportinggood.com**, and **officemaxx.com**, and have used each of these domains in an almost identical manner to the Domains, namely to redirect consumers to the intended website and subsequently, to earn commissions in connection with each retailer’s affiliate program.

41. On information and belief, Defendants have been ordered to transfer numerous domain names through proceedings instituted under the UDRP based on their bad faith registration and use of domain names that include well-known trademarks or typographical variations thereof, including **wwwsportsauthority.com**, **wwwthesportsauthority.com**, **wwworangeglo.com**, and **wwwcanadiantire.com**.

42. On information and belief, Defendants have been named in numerous proceedings under the UDRP based on their registration of domain names that include well-known

trademarks or typographical variations thereof, and the panels in those cases have found the Defendants to have registered and used the domain names in question in bad faith.

43. On information and belief, Defendants have attempted to conceal their wrongful behavior by providing incomplete, inaccurate and false contact information in the WHOIS records for the various Domains. For example, when Dell first learned of Defendants' use of the Domains, the e-mail address listed in the WHOIS records for many of the Domains was no.valid.e-mail@worldnic.net and the listed telephone number was (111) 111-1111. True and correct copies of the original WHOIS records for these domains are attached as Exhibit C.

44. On information and belief, Defendants have attempted to conceal their wrongful behavior by amending the WHOIS records for some of Defendants' domains registered by Defendants to mimic the WHOIS records for domain names owned by Dell. For example, after Defendants were terminated from the DBS Affiliate Program in late June 2005, Defendants amended the WHOIS record for **dellforme.com** to list the registrant of the domain as "Dell Inc." and provided postal addresses and phone numbers apparently taken from the WHOIS records of Dell-owned domain names. A copy of the June 28, 2005 WHOIS record is attached as Exhibit D. **Dellforme.com** is not, and has not ever been, registered to Dell.

45. On information and belief, Defendants have further attempted to conceal their identities by changing the WHOIS information on most of the Domains to a new, apparently fictitious entity in Barbados, "Moniker Privacy Services," with an incomplete postal address in Barbados, a phone number from the Bahamas, and a listed e-mail address of postmaster@monikerprivacy.com. True and correct copies of the current WHOIS records for the domain names owned by Defendant Moniker Privacy Services are attached as Exhibit E.

46. On information and belief, the monikerprivacy.com domain name was first registered on August 2, 2005. A true and correct copy of the WHOIS record for monikerprivacy.com is attached as Exhibit F.

47. On information and belief, Defendant John Doe has attempted to conceal his identity by failing to provide any WHOIS information for the domain name under his control, **wwwdellradio.com**. No postal address or phone number is provided in the WHOIS record for that domain. A true and correct copy of the WHOIS record for **wwwdellradio.com** is attached as Exhibit G.

48. Additionally, and on information and belief, Defendants have provided false information to Dell during their participation in the BSD Affiliate Program. For instance, Defendant Terrashare and Defendant Joel Wilson provided a federal tax identification number that does not correspond to any known company.

49. On information and belief, Defendant Cheng has provided false information to Dell during his participation in the BSD Affiliate Program. For example, Cheng provided a false social security number to the BSD Affiliate Program.

50. Since Defendants' enrollment in the DHS and BSD Affiliate Programs, Dell has paid Defendants in excess of \$90,000.

51. In addition to the commissions Dell has wrongfully paid to Defendants, Dell has paid Linkshare and BeFree additional fees directly resulting from Defendants' improperly earned commissions and wrongful use of the Domains.

52. On information and belief, consumers reach Defendants' Domains by mistake. But for Defendants' registration and use of the Domains, such consumers would not reach any active website, but would realize they had made an error, retype the domain name they intended

to reach, and arrive at the Dell Websites directly. In the alternative, because the Domains are confusingly similar to Dell's DELL Marks and no one other than Dell has the right to use them, Dell could (and would be entitled to) register them, ensuring that consumers who type the Domains into their browser are redirected to and reach a Dell Website. In either case, the consumer would reach the intended Dell Website without the need for Dell to pay a third party.

53. On information and belief, Defendants have intentionally directed their above wrongful acts at Dell, which resides and is located in this District.

FIRST CAUSE OF ACTION
(Trademark Infringement – 15 U.S.C. § 1114)

54. Dell realleges the allegations contained in paragraphs 1 through 53.

55. Defendants' aforesaid acts are likely to cause confusion, mistake or deception with Dell's registered marks.

56. Defendants' aforesaid acts constitute trademark infringement in violation of section 32 of the Lanham Act, 15 U.S.C. § 1114.

57. Defendants' aforesaid acts are greatly and irreparably damaging to Dell and will continue to damage Dell unless enjoined by the Court such that Dell is without an adequate remedy at law.

SECOND CAUSE OF ACTION
(Cybersquatting – 15 U.S.C. § 1125(d))

58. Dell realleges the allegations contained in paragraphs 1 through 53 and 57.

59. Defendants, with a bad-faith intent to profit from the famous DELL Marks, registered and used domain names that are confusingly similar to or dilutive of the DELL Marks.

60. Defendants' aforesaid acts constitute cybersquatting in violation of the Anticybersquatting Consumer Protection Act, 15 U.S.C. § 1125(d).

THIRD CAUSE OF ACTION

(Dilution -- 15 U.S.C. § 1125(c))

61. Dell realleges the allegations contained in paragraphs 1 through 53 and 57.
62. Defendants' aforesaid acts cause dilution of the famous DELL Marks, and Defendant willfully intended to trade on Dell's reputation and to cause such dilution.
63. Defendants' aforesaid acts constitute trademark dilution in violation of 15 U.S.C. § 1125(c).

FOURTH CAUSE OF ACTION

(Unfair Competition – 15 U.S.C. § 1125(a))

64. Dell realleges the allegations contained in paragraphs 1 through 53 and 57.
65. Defendants' aforesaid acts are likely to cause confusion or mistake, or to deceive as to Defendants' affiliation, connection, or association with Dell, or as to the origin, sponsorship, or approval of Defendants' services.
66. Defendants' aforesaid acts constitute unfair competition in violation of section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a)(1)(A).

FIFTH CAUSE OF ACTION

(Dilution -- Texas Bus. & Com. Code § 16.29 and Texas Common Law)

67. Dell realleges the allegations contained in paragraphs 1 through 53 and 57.
68. Defendants' aforesaid acts are likely to cause dilution of the famous and distinctive DELL Marks.
69. Defendants' aforesaid acts constitute trademark dilution in violation of Texas Bus. & Comm. Code § 16.29 and the common law of the state of Texas.

SIXTH CAUSE OF ACTION
(Unfair Competition –Texas Common Law)

70. Dell realleges the allegations contained in paragraphs 1 through 53 and 57.
71. Defendants' aforesaid acts are likely to cause confusion, mistake or deception with Dell's marks.
72. Defendants' aforesaid acts constitute unfair competition in violation of the common law of the state of Texas.

SEVENTH CAUSE OF ACTION
(Breach of Contract)

73. Dell realleges the allegations contained in paragraphs 1 through 53 and 57.
74. Defendants' use of the Domains in connection with their participation in the DHS Affiliate Program and BSD Affiliate Program violates the terms of the respective Affiliate Agreements.
75. Defendants' aforesaid acts constitute breach of contract in violation of the common law of the state of Texas.

EIGHTH CAUSE OF ACTION
(Unjust Enrichment)

76. Dell realleges the allegations contained in paragraphs 1 through 53 and 57.
77. Defendants have wrongfully obtained a benefit from Dell by virtue of their fraudulent activities and gained undue advantage resulting from use of domain names that infringe Dell's rights.
78. Defendants' aforesaid acts constitute unjust enrichment in violation of the common law of the state of Texas.

NINTH CAUSE OF ACTION
(Civil Conspiracy)

79. Dell realleges the allegations contained in paragraphs 1 through 53 and 57.
80. Defendants acted together to register, obtain and use the Domains to defraud Dell and to enroll in Dell's Affiliate Programs to obtain commissions based on the wrongful use of domain names that infringe Dell's trademark rights, and to conceal their wrongful activity and identity.
81. There occurred a meeting of the minds on the object and course of actions by and between Terrashare, Cheng, Jones, Moniker Privacy Services, John Doe, and their employees and representatives acting on their behalf on or before July 2001, and continuing to the present.
82. Defendants engaged in one or more illegal and overt acts of fraudulent, tortious, and unfair conduct in furtherance of the conspiracy.
83. Dell has suffered actual damage and loss as a result of Defendants' conduct.
84. Defendants' acts constitute civil conspiracy in violation of the common law of the state of Texas.

PRAYER FOR RELIEF

WHEREFORE, Dell prays that:

1. Defendants, their respective officers, agents, servants, employees, attorneys, and all others in active concert or participation with any of them, be enjoined and restrained during the pendency of this action and permanently thereafter from:
 - a. using or conspiring to use any of Dell's DELL Marks and any colorable imitation or simulation of any of them;

- b. registering or using, directly or indirectly, any of the Domains, or any other domain name that contains any of Dell's DELL Marks, or any colorable imitation, simulation or typographical variation of any of them, either alone or in combination with any other term, or any domain name that is confusingly similar to any of the above, or conspiring to do so;
- c. doing or conspiring to do any act or thing likely to induce the belief that Defendants' products or services are in any way legitimately connected with, or sponsored or approved by, Dell;
- d. doing or conspiring to do any act or thing that dilutes or is likely to dilute the distinctiveness of any of Dell's DELL Marks or that tarnishes or is likely to tarnish the goodwill associated with any of them.

2. Defendants, their respective officers, agents, servants, employees, attorneys, and all others in active concert or participation with any of them, be required to:

- a. assign to Dell the registrations of, and all rights in and to, the Internet domain names **dell4sale.com, dellbusiness.com, dellcomp.com, dellfactoryoutlet.com, dellforme.com, dellfourme.com, dellhome.com, dellinspiron.com, delll4me.com, dellonlineoutlet.com, dellsystem.com, dellweboutlet.com, wwwdelloutlet.com, and wwwdellradio.com**, as well as any other domain name covered by Paragraph 1.b;

- b. pay to Dell its actual damages sustained as a result of Defendants' wrongful conduct in accordance with 15 U.S.C. § 1117 and the common law of Texas;
- c. account for and pay over to Dell all profits derived by Defendants from their complained of acts, in accordance with 15 U.S.C. § 1117 and the common law of Texas;
- d. pay to Dell the greater of three times the damages Dell has suffered as a result of the complained-of acts of defendant or three times Defendants' profits, in accordance with 15 U.S.C. § 1117;
- e. pay to Dell, as an alternative measure of relief to actual damages and disgorgement of Defendants' profits, maximum statutory damages under 15 U.S.C. § 1125(d) of \$100,000 per domain name;
- f. pay to Dell exemplary damages in a sum sufficient to deter Defendants from future acts complained of in this action in accordance with Texas Civ. Prac. & Rem. Code § 41.003;
- g. pay to Dell the costs of this action together with Dell's reasonable attorneys' fees and disbursements, in accordance with 15 U.S.C. § 1117, Texas Civ. Prac. & Rem. Code § 38.001 and common law; and
- h. file with this Court and serve on Dell a report in writing under oath setting forth in detail the manner and form in which Defendants have complied with the terms of any injunction entered by this Court, in accordance with U.S.C. § 1116.

3. Dell have such further relief as this Court deems just and equitable.

Respectfully submitted,

By: Steve Mele 8/18/05

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Tab A

DELL HOME SYSTEMS U.S. AFFILIATES PROGRAM AGREEMENT

IMPORTANT-READ CAREFULLY: THIS AFFILIATES PROGRAM AGREEMENT, INCLUDING APPLICABLE OFFERS (COLLECTIVELY, THE "AGREEMENT"), IS A LEGAL AGREEMENT BETWEEN YOU AND DELL USA, L.P. ("DELL") FOR PARTICIPATION IN DELL'S HOME SYSTEMS ("DHS") AFFILIATES PROGRAM ("PROGRAM") AS MANAGED BY AND THROUGH THE LINKSHARE NETWORK™. BY REGISTERING FOR AND PARTICIPATING IN THE PROGRAM, YOU AGREE TO BE BOUND BY THE TERMS OF THIS AGREEMENT. IF YOU DO NOT AGREE TO THE TERMS OF THIS AGREEMENT, DO NOT REGISTER FOR OR PARTICIPATE IN THE PROGRAM. IF YOU DO NOT AGREE TO AND ACCEPT THE TERMS OF THIS AGREEMENT IN ITS ENTIRETY AND YOU ARE ALREADY A DELL AFFILIATE, IMMEDIATELY TERMINATE ALL USES OF DELL'S MARKS AND ANY LINKS TO DELL'S WEBSITE(S). AS USED IN THIS AGREEMENT "WE" MEANS DELL USA, L.P. AND ITS SUBSIDIARIES AND CORPORATE AFFILIATES ("DELL") AND "YOU" MEANS THE PARTICIPATING WEB AFFILIATE ("AFFILIATE" OR "YOU").

1. PARTICIPATION IN THE PROGRAM

If you are a member of The LinkShare Network™, you only need to read and agree to this Agreement. If you are not a member of The LinkShare Network™, you must complete a registration form to join The LinkShare Network™ and then read and agree to this Agreement. We will evaluate your registration form and notify you if your Site is not accepted for participation in the Program. We may reject your application after initial approval if we determine (in our sole discretion) that your Site is unsuitable for the Program. Unsuitable sites include, but are not limited to, those that:

- Promote (including, without limitation, links to) sexually explicit materials
- Promote violence
- Promote discrimination based on race, sex, religion, nationality, disability, sexual orientation, or age
- Promote illegal activities
- Manipulate key word searches on portals
- Misrepresent themselves as a Dell Website by co-opting the visual "look and feel" of or text from Dell's Site
- Include "Dell" or variations or misspellings thereof in their domain names
- Otherwise violate intellectual property rights, including, without limitation, "scraping" text or images from Dell's Websites
- Have traffic of less than 500 unique visitors per day
- Do not clearly state an online privacy policy to its visitors
- Otherwise are considered offensive or inappropriate at Dell's discretion

This agreement governs participation in the Dell Home Systems ("DHS") Affiliates Program only.

Once you are accepted into the Program, you will be able to participate in the Program subject to the terms and conditions of this Agreement. You should also note that if you are accepted to participate in the Program and your Site is thereafter determined (in our sole discretion) to be unsuitable based on the criteria above for the Program, we may terminate this Agreement.

2. DEFINITIONS

2.1 **"Dell Site"** means the U.S. only Dell Home Systems website located at the URL
<http://www.dell.com/us/en/dhs/default.htm>.

2.2 **"Offer"** means a specific offer posted by Dell on its Program site located within The LinkShare

Network™ Site that receives an identification number from The LinkShare Network™. The terms and conditions of such Offers shall be incorporated into this Agreement.

2.3 **“Qualifying Link”** means a link from your Site to Dell’s Site using one of the Required URLs or any other URL or graphic link provided by Dell for use in the Program (through the LinkShare Network™).

2.4 **“Qualifying Product”** means a Dell product or service that is offered for sale by Dell Home Systems at the Dell Site and is the subject of an Offer.

2.5 **“Qualifying Product Sales”** means sales of Qualifying Products offered at Dell’s Site and specifically excludes sales of Dell products and services sold: (a) by phone, (b) through any Dell sales segment other than DHS, including, but not limited to, Dell Auction@DellExchange, Dell Donation@DellExchange, Dell Host, Dell Employee Purchase Programs, Dell’s Business Systems Division (“BSD”), or Premier pages, or (c) through a non-U.S. site.

2.6 **“Qualifying Product Revenues”** means revenues derived by us from Qualifying Product Sales, excluding costs for shipping, handling, gift-wrapping, taxes, service charges, credit card processing fees, bad debt, and promotional discounts as advertised.

2.7 **“Required URLs”** means the special URLs specified in an Offer to be used to link from your Site to Dell’s Site.

2.8 **“Session”** means the period between the time a Customer (as defined in Section 5.1 below) first clicks on a Qualifying Link on your Site and the time the Customer makes an online purchase at the Dell Site, provided that both the click on the Qualifying Link and such online purchase is made during the same browser session. By way of example and for clarification, a Session will occur if a Customer exits the Dell Site after clicking through a Qualifying Link but returns directly to the Dell Site during the same browser session. However, a Session will not occur if a Customer exits the browser after clicking through a Qualifying Link, then relaunches the browser and returns to the Dell Site.

2.9 **“Site”** means a World Wide Web Site and, depending on the context, includes the website that you will link to the Dell Site as identified in your Linkshare.com registration form.

3. OFFERS

3.1. From time to time, Dell may post on The LinkShare Network™ Offers to pay members of The LinkShare Network™, as well as other participating Dell web affiliates who may not be members of The LinkShare Network™, a specified referral fee on certain Qualifying Product Sales to third parties through a Qualifying Link.

3.2. The terms of an Offer, as posted on The LinkShare Network™ or otherwise communicated to you shall be governed by the terms and conditions of this Agreement. However, in the event of any inconsistency between the terms of the specific Offer and the terms of this Agreement, the terms of the Offer shall govern.

3.3. At any time prior to you providing a Qualifying Link, Dell may with or without notice (a) change, suspend or discontinue any aspect of an Offer or (b) remove, alter, or modify any graphic or banner ad provided to you pursuant to an Offer. You agree to promptly implement any request from Dell to remove, alter or modify any graphic or banner ad submitted by you that is being used in connection with an Offer.

4. YOUR RESPONSIBILITIES

4.1. You shall only link your Site to areas within Dell’s Site using Required URLs for the Program. You may post as many links to the Required URLs as you like. The position, prominence and nature of links on Dell’s Site shall comply with any requirements specified in the Offer, but otherwise will be in Dell’s discretion. Only valid Qualifying Links generated by The LinkShare Network™ will be tracked for

purposes of determining referral fees that you may be eligible to receive on Qualifying Product Sales generated through your Site.

4.2. Dell will not, and is not obligated to, make any representations, warranties or other statements concerning you, your Site, any of your products or services, or your Site policies, except as expressly authorized by the Offer.

4.3 You will be solely responsible for the development, operation and maintenance of your Site and for all materials that appear on your Site. We disclaim all liability for such materials. You shall indemnify and hold us harmless from all claims, damages and expenses (including, without limitation, attorney's fees) relating to the development, operation, maintenance and contents of your Site. You are also responsible for notifying us and The LinkShare Network™ of any malfunctioning of the Required URLs or other problems with your participation in the Program in accordance with the terms of the Offer and this Agreement. Dell (or a designee such as The LinkShare Network™) will respond in normal course to all concerns upon notification.

5. REFERRAL FEES

5.1. We agree to pay you the referral fee based on Qualifying Product Revenues specified in the Offer if: (a) a visitor to the Dell Site (a "Customer") purchases a Qualifying Product, accepts delivery of the Qualifying Product at the shipping destination within the 50 United States, and remits full payment to us; (b) that Customer has accessed the Dell Site and completed a Qualifying Product Sale online via a Qualifying Link from your Site, provided that it is the last link to the Dell Site that the Customer uses during a Session where a sale of a product or a service to Customers occurs; (c) that Customer does not subsequently return or cancel the Qualifying Product purchase; (d) the Customer's order for the Qualifying Product did not involve interaction with a live Dell sales representative (e.g., Customer saves the order for the Qualifying Product in a "Cart" and then calls a Dell sales representative to complete the order); and (e) you have not otherwise received a referral fee, discount or other payment from Dell (such as a Webcertificate for the "Refer-A-Friend" program) based on that Qualifying Product Sale.

In the event that a Customer purchases a Dell product or service through another Dell sales segment (e.g., Business Systems Division ("BSD")) after accessing the Dell Site through a Qualifying DHS Link, Dell may, but is not obligated to, pay you a referral fee based on the then current referral fee program terms for the other sales segment. Ex. If a Customer purchases a Dell product or service through the Business Systems Division after accessing the Dell Site through a Qualifying DHS Link, Dell will pay you a referral fee if you are registered to participate in the BSD program. If you are not registered for that program, Dell may, but is not obligated to, pay you a referral fee.

5.2. Dell shall have the sole right and responsibility for processing all orders made by Customers. You acknowledge that all agreements relating to sales to Customers shall be between Dell and the Customer. Customers who buy products through this Program will be deemed to be Customers of Dell. Accordingly, all Dell rules, policies, and operating procedures concerning customer orders and returns, customer service, customer data, and product sales will apply to those Customers. We may change our policies and operating procedures at any time. For example, we will determine the prices to be charged for products sold under this Program in accordance with our own pricing policies. Product prices and availability may vary from time to time. Because price changes may affect Products that you already have listed on your Site, you may not include price information in your Product descriptions. We will use commercially reasonable efforts to present accurate information, but we cannot guarantee the availability or price of any particular Product.

5.3 All determinations of Qualifying Links and whether a referral fee is payable will be made by The LinkShare Network™ and will be binding on both of us.

5.4 For unresolved credit issues needing review, orders will need to be submitted to your current Dell and/or LinkShare contact or to DellHome@Linkshare.com within 120 days of the transaction date.

6. REFERRAL FEE PAYMENT

6.1 Unless otherwise stated in an Offer Addendum, we will pay you referral fees on a monthly basis. Approximately sixty (60) days following the end of each month, we (or our designee, The LinkShare Network™) will send you a check for the referral fees earned on Qualifying Product revenues for that month, less any returns and canceled orders. However, if the referral fees payable to you for any month are less than \$50.00, we will hold those referral fees until the total amount due is at least \$50.00 or (if earlier) until this Agreement is terminated. If a customer returns a Qualifying Product that generated a referral fee, we will deduct the corresponding referral fee from your next monthly payment. If there is no subsequent payment, we will send you an invoice for the referral fee payable within thirty (30) days of your receipt of the invoice.

7. OWNERSHIP AND LICENSES

7.1 Each party owns and shall retain all right, title and interest in its names, logos, trademarks, service marks, trade dress, copyrights and proprietary technology, including, without limitation, those names, logos, trademarks, service marks, trade dress, copyrights and proprietary technology currently used or which may be developed and/or used by it in the future.

7.2 We grant you a limited, revocable, non-exclusive, license to use the graphic image and text, which may include our name, logos, trademarks, service marks (collectively, the "Dell Marks"), designated in the Offer, only as provided to you through The LinkShare Network™ Site and solely for the purpose of creating links from your Site to our Site pursuant to this Agreement. Except as expressly set forth in this Agreement or permitted by applicable law, you may not copy, distribute, modify, reverse engineer, or create derivative works from the same. You may not sublicense, assign or transfer any such licenses for the use of the same, and any attempt at such sublicense, assignment or transfer is void. Any prominent use of the Dell Marks on your Site must be approved by Dell prior to publishing. We may revoke your license at any time by giving you written notice.

7.3 The Parties understand and agree that Dell Computer Corporation, a related company of Dell USA, L.P., owns the Dell Marks and may be a necessary party in any undertaking to enforce this Agreement.

7.4 As a condition to your acceptance and participation in the Program, you agree to not undertake or engage in the following practices, and any violation of this Section shall be deemed a material breach of this Agreement:

- (a) Use or otherwise incorporate the word "Dell" or variations or misspellings in the domain name(s) of your Site(s), on any meta tags of Web pages comprising your Site, or in advertising or searchable keywords;
- (b) Modify or alter Dell's Site in any way;
- (c) Make any representations, either express or implied, or create an appearance that a visitor to your Site is visiting Dell's Site, e.g. "framing" the Dell Site, without Dell's prior written approval; or
- (d) "Scrape" or "spider" the Dell Site or any other Dell website for content (such as images, logos and text).

8. TERMINATION

8.1 Either party may terminate an Offer at any time by deleting their acceptance of the Offer through The LinkShare Network™. Termination of a specific Offer shall not be deemed to terminate any other Offers.

8.2 Either party may terminate this Agreement at any time, for any reason, upon five (5) days prior written notice of such termination to the other party and The LinkShare Network™. In addition, Dell shall be entitled to terminate this Agreement immediately if you materially breach or violate any terms or

conditions of this Agreement, or if Dell determines, in its sole discretion, that there are technical or operational issues (e.g. interruptions caused by or shifts in online/Internet technology) that adversely affect the implementation of the Program, or the orders/referrals were obtained fraudulently or through misrepresentation, in which case Dell reserves the right to withhold payment of associated referral fees pending an investigation of the suspected fraud or misrepresentation. Termination of this Agreement shall also terminate any outstanding Offer. However, all rights to payment, causes of action and any provisions that by their terms are intended to survive termination, shall survive termination of this Agreement.

8.3 Upon termination of this Agreement for any reason, you will immediately cease use of, and remove from your Site, all links to our Site, and all Dell trademarks, trade dress and logos, and all other materials provided by or on behalf of us to you pursuant hereto or in connection with the Program.

8.4 You are only eligible to earn referral fees on Qualifying Product Revenues occurring during the term of this Agreement, and referral fees earned through the date of termination will remain payable only if the related Qualifying Products are not canceled or returned by a Customer. In addition, we may invoice you for referral fees that were paid to you prior to termination if those referral fees relate to Qualifying Products that are subsequently canceled or returned by a Customer. We may withhold your final payment for a reasonable time to ensure that the correct amount is paid.

9. REPRESENTATIONS

9.1. You represent and warrant that (a) you have the authority to enter into this Agreement and sufficient rights to grant any licenses expressed herein, and (b) any material displayed on your Site will not: (i) infringe on any third party's copyright, patent, trademark, trade secret or other proprietary rights or right of publicity or privacy; (ii) violate any applicable law, statute, ordinance or regulation; (iii) be defamatory or libelous; (iv) be lewd, pornographic or obscene; (v) violate any laws regarding unfair competition, anti-discrimination or false advertising; (vi) promote violence or contain hate speech; (vii) promote discrimination based on race, age, sex, religion, nationality, sexual orientation or disability; (viii) contain viruses, trojan horses, worms, time bombs, cancelbots or other similar harmful or deleterious programming routines' or (ix) otherwise constitutes an "unsuitable Site" as determined by Dell in accordance with the terms outlined in the Section I. above titled "Participation in the Program."

9.2. NEITHER PARTY MAKES ANY REPRESENTATIONS OR WARRANTIES TO THE OTHER PARTY, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. DELL MAKES NO EXPRESS OR IMPLIED WARRANTIES OR REPRESENTATIONS WITH RESPECT TO THE PROGRAM OR ANY PRODUCTS SOLD THROUGH THE PROGRAM OR THAT OUR SITE WILL BE UNINTERRUPTED OR ERROR-FREE AND WE WILL NOT BE RESPONSIBLE FOR CONSEQUENCES OF ANY INTERRUPTIONS OR ERRORS.

10. INDEMNIFICATION

Each party hereby agrees to indemnify, defend and hold harmless the other party and its affiliates, directors, officers, employees and agents, from and against any and all liability, claims, losses, damages, injuries or expenses (including reasonable attorneys' fees) brought by a third party, arising out of a breach, or alleged breach, of any of its representations or obligations herein.

11. LIMITATION OF LIABILITY

In no event will either party be liable to the other party for any direct, indirect, special, exemplary, consequential or incidental damages arising from or related to this Agreement, the Program, or the The LinkShare Network™, even if informed of the possibility of such damages. Further, Dell's aggregate liability arising from this Agreement and the Program shall not exceed the total referral fees paid or payable to you under this Agreement.

12. GENERAL

12.1 **No Agency.** Each party shall act as an independent contractor and shall have no authority to obligate or bind the other in any respect, and nothing in this Agreement (including any Offer) shall create any partnership, joint ventures, agency, franchise, sales representative or employment relationship between the parties. Neither party shall make any statement, whether on their sites or otherwise, that reasonably would contradict anything in the paragraph.

12.2 **Responsibility for Binding Agreement.** You acknowledge that you have read this Agreement and agree to all its terms and conditions. You understand that we may at any time (directly or indirectly) solicit Customer referrals on terms that may differ from those contained in this Agreement or operate Sites that are similar to or compete with your Site. You have independently evaluated the desirability of participating in the Program and are not relying on any representation, guarantee, or statement other than as set forth in this Agreement.

12.3 **Jurisdiction; Venue.** THIS AGREEMENT HAS BEEN MADE IN AND SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH THE LAWS OF THE UNITED STATE AND TEXAS WITHOUT REFERENCE TO RULES GOVERNING CHOICE OF LAWS. ANY ACTION TO ENFORCE THIS AGREEMENT MUST BE BROUGHT IN THE STATE OR FEDERAL COURTS LOCATED IN AUSTIN, TEXAS, and you irrevocably consent to the jurisdiction of such courts.

12.4 **Notice.** Any notices required or permitted by this Agreement must be delivered to Dell via registered mail to:

Dell USA, L.P.
One Dell Way
Round Rock, Texas 78682
Attention: Dell U.S. Affiliates Program Manager

With a copy to: Dell Legal Department

Any notices required or permitted by this Agreement or communications in connection with this Program will be sent to you by Dell via e-mail at the address you provided when you registered to become a member of The LinkShare Network™.

12.5 **Counterparts; Manifestation of Assent.** This Agreement may be agreed to in more than one counterpart, each of which together shall form one and the same instrument. The parties agree that execution and manifestation of assent may be achieved in any format convenient to the parties.

12.6 **Severability.** The provisions of this Agreement are independent of and separable from each other, and no provision shall be affected or rendered invalid or unenforceable by virtue of the fact that for any reason any other or others of them may be invalid or unenforceable in whole or in part.

12.7 **Assignment.** You may not assign this Agreement, by operation of law or otherwise, without our prior written consent, which may be withheld in our sole discretion. Subject to that restriction, this Agreement will be binding on, inure to the benefit of, and enforceable against the parties and their respective successors and assigns. Our failure to enforce your strict performance of any provision of this Agreement will not constitute a waiver of our right to subsequently enforce such provision or any other provision of this Agreement.

12.8 **Equitable Relief.** The parties agree that any breach of either of the party's obligations regarding trademarks, service marks or trade names, confidentiality, links or the removal of links, and/or user data may result in irreparable injury for which there may be no adequate remedy at law. Therefore, in the event

of any breach or threatened breach of a party's obligations regarding trademarks, service marks or trade names, confidentiality, links or the removal of links, and/or user data, the aggrieved party will be entitled to seek equitable relief in addition to its other available legal remedies in a court of competent jurisdiction.

12.9 **Obligation to Mediate in Good Faith.** Except as provided in this Section 12.7, before either party initiates a lawsuit against the other relating to this Agreement, the parties agree to mediate all disputes and claims arising out of or relating to this Agreement, the parties' performance under it, or its breach. To this end, either party may request, after informal discussions have failed to resolve a dispute or claim, that each party designate an officer or other management employee with authority to bind the party to meet in good faith and attempt to resolve the dispute or claim through mediation. During their discussions, each party will honor the other's reasonable requests for information that is not privileged and relates to the dispute or claim. This Section does not apply (i) should the expiration of the statute of limitations for a cause of action be imminent, or (ii) if a party is seeking an injunction pursuant to Section 12.8.

12.10 **Force Majeure.** You acknowledge that Dell's and LinkShare's servers, equipment, and services (e.g. tracking and reporting) may be subject to temporary modifications or shutdowns due to causes beyond Dell's and LinkShare's reasonable control. Such temporary service interruptions will not constitute a material breach of this Agreement. Dell and LinkShare will use commercially reasonable efforts to provide the services contemplated under this Agreement and to remedy any temporary interruptions or other problems that adversely affect the Program.

12.11 **Attorneys' Fees.** In the event any action is commenced to construe or enforce any provision of this Agreement, the prevailing party, in addition to all other amounts such party is entitled to receive from the other party, will be entitled to receive its reasonable attorneys' fees and costs incurred in bringing such action.

12.12 **Survival.** Sections 8 (Termination), 10 (Indemnification), 11 (Limitation of Liability), and 12 (General), including all subsections thereof, shall survive the termination of this Agreement.

12.13 **Modifications.** We may modify any of the terms and conditions contained in this Agreement, at any time and in our sole discretion, by posting a change notice or a new agreement on the LinkShare Site and giving you notice of the modification through the LinkShare Network™. Modifications may include, for example, changes in the scope of available referral fees, referral fee schedules, payment procedures, and Program rules. IF ANY MODIFICATION IS UNACCEPTABLE TO YOU, YOUR ONLY RE COURSE IS TO TERMINATE THIS AGREEMENT. YOUR CONTINUED PARTICIPATION IN THE PROGRAM FOLLOWING OUR POSTING OF A CHANGE NOTICE OR NEW AGREEMENT ON OUR SITE WILL CONSTITUTE BINDING ACCEPTANCE OF THE CHANGE.

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Dell recommends Microsoft® Windows® XP Professional

Tab B

Dell Business Affiliates Program

Affiliates Terms and Conditions

DELL BUSINESS SYSTEMS U.S. AFFILIATES PROGRAM AGREEMENT

IMPORTANT-READ CAREFULLY: THIS AFFILIATES PROGRAM AGREEMENT, INCLUDING APPLICABLE OFFERS (COLLECTIVELY, THE "AGREEMENT"), IS A LEGAL AGREEMENT BETWEEN YOU AND DELL MARKETING, L.P. ("DELL") FOR PARTICIPATION IN DELL'S BUSINESS SYSTEMS DIVISION ("BSD") AFFILIATES PROGRAM ("PROGRAM") AS MANAGED BY AND THROUGH BE FREE™. BY REGISTERING FOR AND PARTICIPATING IN THE PROGRAM, YOU AGREE TO BE BOUND BY THE TERMS OF THIS AGREEMENT. IF YOU DO NOT AGREE TO THE TERMS OF THIS AGREEMENT, DO NOT REGISTER FOR OR PARTICIPATE IN THE PROGRAM. IF YOU DO NOT AGREE TO AND ACCEPT THE TERMS OF THIS AGREEMENT IN ITS ENTIRETY AND YOU ARE ALREADY A DELL AFFILIATE, IMMEDIATELY TERMINATE ALL USES OF DELL'S MARKS AND ANY LINKS TO DELL'S WEBSITE(S). AS USED IN THIS AGREEMENT "WE" MEANS DELL MARKETING, L.P. AND ITS SUBSIDIARIES AND CORPORATE AFFILIATES ("DELL") AND "YOU" MEANS THE PARTICIPATING WEB AFFILIATE ("AFFILIATE" OR "YOU").

1. PARTICIPATION IN THE PROGRAM

This agreement governs participation in the Dell Business Systems Division ("BSD") Affiliates Program only.

Once you are accepted into the Program, you will be able to participate in the Program subject to the terms and conditions of this Agreement. You should also note that if you are accepted to participate in the Program and your Site is thereafter determined (in our sole discretion) to be unsuitable based on the criteria below for the Program, we may terminate this Agreement:

- Promote (including, without limitation, links to) sexually explicit materials
- Promote violence
- Promote discrimination based on race, sex, religion, nationality, disability, sexual orientation, or age
- Promote illegal activities
- Manipulate key word searches on portals
- Misrepresent themselves as a Dell Website by co-opting the visual "look and feel" of or text from Dell's Site
- Include "Dell" or variations or misspellings thereof in their domain names
- Otherwise violate intellectual property rights, including, without limitation, "scraping" text or images from Dell's Websites
- Have traffic of less than 500 unique visitors per day
- Do not clearly state an online privacy policy to its visitors
- Otherwise are considered offensive or inappropriate at Dell's discretion

2. DEFINITIONS

2.1 "Dell Site" means the U.S. only Dell Small Business Systems website located at the URL www.dell.com/smallbiz. The Small Business web site includes businesses with 1-200 employees and a yearly spending level less than \$100,000 dollars.

2.2 "Offer" means a specific offer posted by Dell on its Program site located within Be Free™ Site that receives an identification number from Be Free™. The terms and conditions of such Offers shall be incorporated into this Agreement.

2.3 "**Qualifying Link**" means a Dell Business link from your Site to Dell's Small Business Site using one of the Required URLs or any other URL or graphic link provided by Dell for use in the Program. A Qualifying Link may reference any promotion publicly available on Dell's Small Business Site or any coupon codes provided to the Affiliate by BeFree, but may not reference any coupon codes that the Affiliate may obtain from other sources, including but not limited to Dell marketing materials.

2.4 "**Qualifying Product**" means a Dell product or service that is offered for sale by Dell Small Business Systems at the Dell Site and is the subject of an Offer.

2.5 "**Qualifying Product Sales**" means sales of Qualifying Products offered at Dell's Site and specifically excludes sales of Dell products and services sold: (a) by phone, (b) through any Dell sales segment other than BSD, including, but not limited to, Auction@DellExchange, Donation@DellExchange, Dell Host, Dell Employee Purchase Program ["EPP"], Dell Home Systems Division ("DHS"), or (c) through a non-U.S. site.

2.6 "**Qualifying Product Revenues**" means revenues derived by us from Qualifying Product Sales, excluding costs for shipping, handling, gift-wrapping, taxes, service charges, credit card processing fees, bad debt, and promotional discounts as advertised.

2.7 "**Required URLs**" means the special URLs specified in an Offer to be used to link from your Site to Dell's Site.

2.8 "**Session**" means the period between the time a Customer (as defined in Section 5.1 below) first clicks on a Qualifying Link on your Site and the time the Customer makes an online purchase at the Dell Site, provided that both the click on the Qualifying Link and such online purchase is made during the same browser session. By way of example and for clarification, a Session will occur if a Customer exits the Dell Site after clicking through a Qualifying Link but returns directly to the Dell Site during the same browser session. However, a Session will not occur if a Customer exits the browser after clicking through a Qualifying Link, then relaunches the browser and returns to the Dell Site.

2.9 "**Site**" means a World Wide Web Site and, depending on the context, includes the website that you will link to the Dell Site as identified in your Be Free registration form.

3. OFFERS

3.1. From time to time, Dell may post on Be Free™ Offers to pay members of Be Free™, as well as other participating Dell web affiliates who may not be members of Be Free™, a specified referral fee on certain Qualifying Product Sales to third parties through a Qualifying Link.

3.2. The terms of an Offer, as posted on Be Free™ or otherwise communicated to you shall be governed by the terms and conditions of this Agreement. However, in the event of any inconsistency between the terms of the specific Offer and the terms of this Agreement, the terms of the Offer shall govern.

3.4. At any time prior to you providing a Qualifying Link, Dell may with or without notice (a) change, suspend or discontinue any aspect of an Offer or (b) remove, alter, or modify any graphic or banner ad provided to you pursuant to an Offer. You agree to promptly implement any request from Dell to remove, alter or modify any graphic or banner ad submitted by you that is being used in connection with an Offer.

4. YOUR RESPONSIBILITIES

4.1. You shall only link your Site to areas within Dell's Site using Required URLs for the Program. You may post as many links to the Required URLs as you like. The position, prominence and nature of links on Dell's Site shall comply with any requirements specified in the Offer, but otherwise will be in Dell's discretion. Only

valid Qualifying Links generated by Be Free™ will be tracked for purposes of determining referral fees that you may be eligible to receive on Qualifying Product Sales generated through your Site.

4.2. Dell will not, and is not obligated to, make any representations, warranties or other statements concerning you, your Site, any of your products or services, or your Site policies, except as expressly authorized by the Offer.

4.3. You will be solely responsible for the development, operation and maintenance of your Site and for all materials that appear on your Site. We disclaim all liability for such materials. You shall indemnify and hold us harmless from all claims, damages and expenses (including, without limitation, attorney's fees) relating to the development, operation, maintenance and contents of your Site. You are also responsible for notifying us and Be Free™ of any malfunctioning of the Required URLs or other problems with your participation in the Program in accordance with the terms of the Offer and this Agreement. Dell (or a designee such as Be Free™) will respond in normal course to all concerns upon notification.

4.4. You will (1) not make any representations, warranties or other statements concerning Dell, Dell's Site, Be Free or Be Free's Site; (2) protect Dell and Be Free's confidential information and (3) not use or display Be Free's trademarks or otherwise infringe Be Free's intellectual property rights.

5. REFERRAL FEES

5.1. We agree to pay you the referral fee based on Qualifying Product Revenues specified in the Offer if: (a) a visitor to the Dell Site (a "Customer") purchases a Qualifying Product, accepts delivery of the Qualifying Product at the shipping destination within the 50 United States, and remits full payment to us; (b) that Customer has accessed the Dell Site and completed a Qualifying Product Sale online via a Qualifying Link from your Site, provided that it is the last link to the Dell Site that the Customer uses during a Session where a sale of a product or a service to Customers occurs; (c) that Customer does not subsequently return or cancel the Qualifying Product purchase; (d) the Customer's order for the Qualifying Product did not involve interaction with a live Dell sales representative (e.g., Customer saves the order for the Qualifying Product in a "Cart" and then calls a Dell sales representative to complete the order); and (e) you have not otherwise received a referral fee, discount or other payment from Dell (such as a Webcertificate for the "Refer-A-Friend" program), including Dell Refurbished, or the Employer Purchase Plan ["EPP"] based on that Qualifying Product Sale.

In the event that a Customer purchases a Dell product or service through another Dell sales segment (e.g., Dell Home & Home Office ("DHS")) after accessing the Dell Site through a Qualifying BSD Link, Dell is not obligated to, pay you a referral fee.

5.2. Dell shall have the sole right and responsibility for processing all orders made by Customers. You acknowledge that all agreements relating to sales to Customers shall be between Dell and the Customer. Customers who buy products through this Program will be deemed to be Customers of Dell. Accordingly, all Dell rules, policies, and operating procedures concerning customer orders and returns, customer service, customer data, and product sales will apply to those Customers. We may change our policies and operating procedures at any time. For example, we will determine the prices to be charged for products sold under this Program in accordance with our own pricing policies. Product prices and availability may vary from time to time. Because price changes may affect Products that you already have listed on your Site, you may not include price information in your Product descriptions. We will use commercially reasonable efforts to present accurate information, but we cannot guarantee the availability or price of any particular Product.

5.3 All determinations of Qualifying Links and whether a referral fee is payable will be made by Be Free™ and will be binding on both of us.

5.4 For unresolved credit issues needing review, orders will need to be submitted to your current Dell and/or Be Free contact or to dellbsdaffiliates@befree.com within 90 days of the transaction date.

6. FLEX TRACK REPORTING

For Affiliates who qualify and remain eligible, the following terms regarding Flex Track Reporting shall apply. This provision shall apply only to Affiliates who qualify and maintain eligible to participate in this program.

6.1 Through its third party service provider, Be Free, Dell will make available to Affiliate an additional, online informational tracking service (currently entitled the "FlexTrack Service"), which will enable Affiliate to access detailed click-through and sales information, identify sub-affiliate sales activity and identify the dollar value of transactions coming from a specific source (collectively, the "FlexTrack Information"). Dell will own all right, title and interest in and to the FlexTrack Information. Affiliate agrees that it shall be solely responsible for the implementation and integration of the FlexTrack Service into its own programs and services, and for obtaining any technical support or assistance in connection with the foregoing.

6.2 Subject to the terms and conditions of this Agreement, Dell grants to Affiliate a worldwide, non-exclusive, royalty-free license to use FlexTrack Information solely for its own internal business use, primarily for the payment of its sub-affiliates. Affiliate will not disclose or permit the disclosure of any FlexTrack Information to any third party without Dell's prior written consent. Affiliate agrees that it shall not use or permit any third party to use any FlexTrack Information or the FlexTrack Service (i) to track, compile or aggregate any information by individual transaction, or (ii) in a manner that uniquely identifies individual Affiliate-driven visitors or individual transactions. You agree not to use any of the FlexTrack Information provided in the Affiliate report to identify unique individual transaction activity without the express written consent of the individual.

6.3 Affiliate shall be solely responsible for any payments due in connection with Affiliate's own sub-affiliate, reward, loyalty, rebate or charitable giving service or programs, and to any affiliate or any third party that Affiliate shares the fees. The BSD U.S. Affiliates Program shall have no direct or implied relationship with the sub-affiliates or other entities associated with Affiliate described in neither this Section 6.3, nor any responsibility to provide service to those independent entities.

6.4 You are solely responsible for the technical implementation of the FlexTrack parameter and for maintaining proper link syntax. During the process of implementation, You will conduct appropriate testing and verification of FlexTrack tracking including link creation, click-through, ordering and reporting as necessary to insure correct and dependable operation of the FlexTrack tracking feature.

6.5 At the present time Dell can provide the FlexTrack Service to Affiliate free of charge. In the event that Dell begins to incur a charge through Be Free or otherwise, for the FlexTrack Service, this charge will be passed along to the Affiliate. Affiliate agrees to pay all such charges to maintain its eligibility under this Section 6.

6.6 At any time and in Dell's sole discretion, Dell reserves the right to modify, suspend or discontinue all or any portion of the FlexTrack Service, provided that, in the event Dell discontinues the FlexTrack Service in its entirety, Dell shall exercise reasonable efforts to provide notice to Affiliates of such discontinuation of service.

6.7 Promptly upon Dell's request, Affiliate shall provide Dell with a current, written list identifying the sub-affiliates or other third parties associated with each unique FlexTrack parameter (the "Parameter List"). Dell agrees that it shall use the Parameter List for the sole purpose of administering the program, monitoring proper use of the FlexTrack Service and enforcing its rights under this Agreement.

7. REFERRAL FEE PAYMENT

7.1 Unless otherwise stated in an Offer Addendum, we will pay you referral fees on a monthly basis. Approximately seventy-five (75) days following the end of each month, we (or our designee, Be Free™) will send you a check for the referral fees earned on Qualifying Product revenues for that month, less any returns and canceled orders. However, if the referral fees payable to you for any month are less than \$25.00, we will hold those referral fees until the total amount due is at least

\$25.00 or (if earlier) until this Agreement is terminated. If a customer returns a Qualifying Product that generated a referral fee, we will deduct the corresponding referral fee from your next monthly payment. If there is no subsequent payment, we will send you an invoice for the referral fee payable within thirty (30) days of your receipt of the invoice.

8. OWNERSHIP AND LICENSES

8.1 Each party owns and shall retain all right, title and interest in its names, logos, trademarks, service marks, trade dress, copyrights and proprietary technology, including, without limitation, those names, logos, trademarks, service marks, trade dress, copyrights and proprietary technology currently used or which may be developed and/or used by it in the future.

8.2 We grant you a limited, revocable, non-exclusive, license to use the graphic image and text, which may include our name, logos, trademarks, service marks (collectively, the "Dell Marks"), designated in the Offer, only as provided to you through Be Free™ Site and solely for the purpose of creating links from your Site to our Site pursuant to this Agreement. Except as expressly set forth in this Agreement or permitted by applicable law, you may not copy, distribute, modify, reverse engineer, or create derivative works from the same. You may not sublicense, assign or transfer any such licenses for the use of the same, and any attempt at such sublicense, assignment or transfer is void. Any prominent use of the Dell Marks on your Site must be approved by Dell prior to publishing. We may revoke your license at any time by giving you written notice.

8.3 The Parties understand and agree that Dell Computer Corporation, a related company of Dell USA, L.P., owns the Dell Marks and may be a necessary party in any undertaking to enforce this Agreement.

8.4 As a condition to your acceptance and participation in the Program, you agree not undertake or engage in the following practices, and any violation of this Section shall be deemed a material breach of this Agreement:

- (a) Use or otherwise incorporate the word "Dell" or variations or misspellings in the domain name(s) of your Site(s), on any meta tags of Web pages comprising your Site, or in advertising or searchable keywords;
- (b) Modify or alter Dell's Site in any way;
- (c) Make any representations, either express or implied, or create an appearance that a visitor to your Site is visiting Dell's Site, e.g. "framing" the Dell Site, without Dell's prior written approval; or
- (d) "Scrape" or "spider" the Dell Site or any other Dell website for content (such as images, logos and text).

9. TERMINATION

9.1 Either party may terminate an Offer at any time by deleting their acceptance of the Offer through Be Free™ . Termination of a specific Offer shall not be deemed to terminate any other Offers.

9.2 Either party may terminate this Agreement at any time, for any reason, upon five (5) days prior written notice of such termination to the other party.. In addition, Dell shall be entitled to terminate this Agreement immediately if you materially breach or violate any terms or conditions of this Agreement, or if Dell determines, in its sole discretion, that there are technical, or operational issues (e.g. interruptions caused by or shifts in online/Internet technology) that adversely affect the implementation of the Program, or the orders/referrals were obtained fraudulently, or through misrepresentation, in which case Dell reserves the right to withhold payment of associated referral pending an investigation of the suspected fraud or misrepresentation. Termination of this Agreement shall also terminate any outstanding Offer. However, all rights to payment, causes of action and any provisions that by their terms are intended to survive termination, shall survive termination of this Agreement.

9.3 Upon termination of this Agreement for any reason, you will immediately cease

use of, and remove from your Site, all links to our Site, and all Dell trademarks, trade dress and logos, and all other materials provided by or on behalf of us to you pursuant hereto or in connection with the Program.

9.4 You are only eligible to earn referral fees on Qualifying Product Revenues occurring during the term of this Agreement, and referral fees earned through the date of termination will remain payable only if the related Qualifying Products are not canceled or returned by a Customer. In addition, we may invoice you for referral fees that were paid to you prior to termination if those referral fees relate to Qualifying Products that are subsequently canceled or returned by a Customer. We may withhold your final payment for a reasonable time to ensure that the correct amount is paid.

10. REPRESENTATIONS

10.1. You represent and warrant that (a) you have the authority to enter into this Agreement and sufficient rights to grant any licenses expressed herein, and (b) any material displayed on your Site will not: (i) infringe on any third party's copyright, patent, trademark, trade secret or other proprietary rights or right of publicity or privacy; (ii) violate any applicable law, statute, ordinance or regulation; (iii) be defamatory or libelous; (iv) be lewd, pornographic or obscene; (v) violate any laws regarding unfair competition, anti-discrimination or false advertising; (vi) promote violence or contain hate speech; (vii) promote discrimination based on race, age, sex, religion, nationality, sexual orientation or disability; (viii) contain viruses, Trojan horses, worms, time bombs, cancelbots or other similar harmful or deleterious programming routines' or (ix) otherwise constitutes an "unsuitable Site" as determined by Dell in accordance with the terms outlined in the Section I. above titled "Participation in the Program."

10.2. NEITHER PARTY MAKES ANY REPRESENTATIONS OR WARRANTIES TO THE OTHER PARTY, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. DELL MAKES NO EXPRESS OR IMPLIED WARRANTIES OR REPRESENTATIONS WITH RESPECT TO THE PROGRAM OR ANY PRODUCTS SOLD THROUGH THE PROGRAM OR THAT OUR SITE WILL BE UNINTERRUPTED OR ERROR-FREE AND WE WILL NOT BE RESPONSIBLE FOR CONSEQUENCES OF ANY INTERRUPTIONS OR ERRORS.

11. INDEMNIFICATION

Each party hereby agrees to indemnify, defend and hold harmless the other party and its affiliates, directors, officers, employees and agents, from and against any and all liability, claims, losses, damages, injuries or expenses (including reasonable attorneys' fees) brought by a third party, arising out of a breach, or alleged breach, of any of its representations or obligations herein.

12. LIMITATION OF LIABILITY

In no event will either party be liable to the other party for any direct, indirect, special, exemplary, consequential or incidental damages arising from or related to this Agreement, the Program, or the Be Free™, even if informed of the possibility of such damages. Further, Dell's aggregate liability arising from this Agreement and the Program shall not exceed the total referral fees paid or payable to you under this Agreement.

13. GENERAL

13.1 **No Agency.** Each party shall act as an independent contractor and shall have no authority to obligate or bind the other in any respect, and nothing in this Agreement (including any Offer) shall create any partnership, joint ventures, agency, franchise, sales representative or employment relationship between the parties. Neither party shall make any statement, whether on their sites or otherwise, that reasonably would contradict anything in the paragraph.

13.2 **Responsibility for Binding Agreement.** You acknowledge that you have read this Agreement and agree to all its terms and conditions. You understand that

we may at any time (directly or indirectly) solicit Customer referrals on terms that may differ from those contained in this Agreement or operate Sites that are similar to or compete with your Site. You have independently evaluated the desirability of participating in the Program and are not relying on any representation, guarantee, or statement other than as set forth in this Agreement.

13.3 Jurisdiction; Venue. THIS AGREEMENT HAS BEEN MADE IN AND SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH THE LAWS OF THE UNITED STATES AND TEXAS WITHOUT REFERENCE TO RULES GOVERNING CHOICE OF LAW. ANY ACTION TO ENFORCE THIS AGREEMENT MUST BE BROUGHT IN THE STATE OR FEDERAL COURTS LOCATED IN AUSTIN, TEXAS, and you irrevocably consent to the jurisdiction of such courts.

13.4 Notice. Any notices required or permitted by this Agreement must be delivered to Dell via registered mail to:

Dell USA, L.P.
One Dell Way
Round Rock, Texas 78682
Attention: Dell U.S. Be Free Affiliates Program Manager

With a copy to: Dell Legal Department

Any notices required or permitted by this Agreement or communications in connection with this Program will be sent to you by Dell via e-mail at the address you provided when you registered to become a member of Be Free.

13.5 Counterparts; Manifestation of Assent. This Agreement may be agreed to in more than one counterpart, each of which together shall form one and the same instrument. The parties agree that execution and manifestation of assent may be achieved in any format convenient to the parties.

13.6 Severability. The provisions of this Agreement are independent of and separable from each other, and no provision shall be affected or rendered invalid or unenforceable by virtue of the fact that for any reason any other or others of them may be invalid or unenforceable in whole or in part.

13.7 Assignment. You may not assign this Agreement, by operation of law or otherwise, without our prior written consent, which may be withheld in our sole discretion. Subject to that restriction, this Agreement will be binding on, inure to the benefit of, and enforceable against the parties and their respective successors and assigns. Our failure to enforce your strict performance of any provision of this Agreement will not constitute a waiver of our right to subsequently enforce such provision or any other provision of this Agreement.

13.8 Equitable Relief. The parties agree that any breach of either of the party's obligations regarding trademarks, service marks or trade names, confidentiality, links or the removal of links, and/or user data may result in irreparable injury for which there may be no adequate remedy at law. Therefore, in the event of any breach or threatened breach of a party's obligations regarding trademarks, service marks or trade names, confidentiality, links or the removal of links, and/or user data, the aggrieved party will be entitled to seek equitable relief in addition to its other available legal remedies in a court of competent jurisdiction.

13.9 Obligation to Mediate In Good Faith. Except as provided in this Section 12.7, before either party initiates a lawsuit against the other relating to this Agreement, the parties agree to mediate all disputes and claims arising out of or relating to this Agreement, the parties' performance under it, or its breach. To this end, either party may request, after informal discussions have failed to resolve a dispute or claim, that each party designate an officer or other management employee with authority to bind the party to meet in good faith and attempt to resolve the dispute or claim through mediation. During their discussions, each party will honor the other's reasonable requests for information that is not privileged and relates to the dispute or claim. This Section does not apply (i) should the expiration of the statute of limitations for a cause of action be imminent, or (ii) if a party is seeking an injunction pursuant to Section 12.8.

13.10 Force Majeure. You acknowledge that Dell's and Be Free's servers, equipment, and services (e.g. tracking and reporting) may be subject to temporary modifications or shutdowns due to causes beyond Dell's and Be Free's reasonable control. Such temporary service interruptions will not constitute a material breach of this Agreement. Dell and Be Free will use commercially reasonable efforts to provide the services contemplated under this Agreement and to remedy any temporary interruptions or other problems that adversely affect the Program.

13.11 Attorneys' Fees. In the event any action is commenced to construe or enforce any provision of this Agreement, the prevailing party, in addition to all other amounts such party is entitled to receive from the other party, will be entitled to receive its reasonable attorneys' fees and costs incurred in bringing such action.

13.12 Survival. Sections 8 (Termination), 10 (Indemnification), 11 (Limitation of Liability), and 12 (General), including all subsections thereof, shall survive the termination of this Agreement.

13.13 Modifications. We may modify any of the terms and conditions contained in this Agreement, at any time and in our sole discretion, by posting a change notice or a new agreement on the Be Free Site and giving you notice of the modification through Be Free™. Modifications may include, for example, changes in the scope of available referral fees, referral fee schedules, payment procedures, and Program rules. IF ANY MODIFICATION IS UNACCEPTABLE TO YOU, YOUR ONLY RE COURSE IS TO TERMINATE THIS AGREEMENT. YOUR CONTINUED PARTICIPATION IN THE PROGRAM FOLLOWING OUR POSTING OF A CHANGE NOTICE OR NEW AGREEMENT ON OUR SITE WILL CONSTITUTE BINDING ACCEPTANCE OF THE CHANGE.

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Domain: [dell4sale.com](#)
Cache Date: 2005-07-15
Registrar: ONLINENIC, INC.

Tabc

Registrant:

domain administrator no.valid_email@onlinenic.net tel: 1111111111

Internet Hosting
3575 University St.
Montreal,QC,Canada H3A2B1

Domain Name:dell4sale.com
Record last updated at 2004-11-28 20:24:25
Record created on 2001/12/2
Record expired on 2005/12/2

Domain servers in listed order:

ns.rackspace.com ns2.rackspace.com

Administrator:

name: Domain Administrator
mail: no.valid_email@onlinenic.net tel: 1111111111
org: Internet Hosting

address: 3575 University St.
city: Montreal
,province: QC
,country: Canada
postcode: H3A2B1

Technical Contact:

name: Domain
mail: no.valid_email@onlinenic.net tel: 1111111111
org: Internet Hosting

address: 3575 University St.
city: Montreal
,province: QC
,country: Canada
postcode: 234567

Billing Contactor:**name:** Domain Administrator**mail:** no.us1@domain1.net **tel:** 1111111111**org:** Internet Hosting**address:** 3575 University St.**city:** Montreal**province:** QC**country:** Canada**postcode:** H3A2B1[Whois](#) | [About us](#) | [Reverse IP](#) | [Whois History](#) | [Mark Alert](#) | [XML Name Spinner](#) |
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Domain: [dellbusiness.com](#)
Cache Date: 2005-07-15
Registrar: ONLINENIC, INC.

Registrant:

domain administrator nn.valid_email@onlinenic.net 1111111111
 Internet Hosting
 3575 University St.
 Montreal,QC,Canada H3A2B1

Domain Name:dellbusiness.com

Record last updated at 2004-10-20 18:15:11

Record created on 2001/11/2

Record expired on 2005/11/2

Domain servers in listed order:

ns.rackspace.com ns2.rackspace.com

Administrator:

Domain Administrator nn.valid_email@onlinenic.net 1111111111
 Internet Hosting
 3575 University St.
 Montreal,QC,Canada H3A2B1

Technical Contactor:

Domain nn.valid_email@onlinenic.net 1111111111
 Internet Hosting
 3575 University St.
 Montreal,QC,Canada 234567

Billing Contactor:

Domain Administrator nn.valid_email@onlinenic.net 1111111111
 Internet Hosting
 3575 University St.
 Montreal,QC,Canada H3A2B1

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Domain: [dellcomp.com](#)

Cache Date: 2005-07-15

Registrar: ONLINENIC, INC.

Registrant:

domain administrator mailto:natehole@rackspace.net tel: 1111111111

Internet Hosting
3575 University St.
Montreal,QC,Canada H3A2B1

Domain Name:dellcomp.com

Record last updated at 2004-11-28 20:24:28

Record created on 2001/12/2

Record expired on 2005/12/2

Domain servers in listed order:

ns.rackspace.com ns2.rackspace.com

Administrator:

name: Domain Administrator

mail: natehole@rackspace.net tel: 1111111111

org: Internet Hosting

address: 3575 University St.

city: Montreal

,province: QC

,country: Canada

postcode: H3A2B1

Technical Contact:

name: Domain

mail: natehole@rackspace.net tel: 1111111111

org: Internet Hosting

address: 3575 University St.

city: Montreal

,province: QC

,country: Canada

postcode: 234567

Billing Contactor:

name: Domain Administrator
mail: natehole@emaildomain.net tel: 1111111111
org: Internet Hosting

address: 3575 University St.

city: Montreal

province: QC

country: Canada

postcode: H3A2B1



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Domain: [dellhome.com](#)
Cache Date: 2005-07-15
Registrar: ONLINENIC, INC.

Registrant:
 domain administrator no.valid.email@onlinenic.net 1111111111
 Internet Hosting
 3575 University St.
 Montreal,QC,Canada H3A2B1

Domain Name:dellhome.com
 Record last updated at 2004-10-20 18:15:16
 Record created on 2001/11/2
 Record expired on 2005/11/2

Domain servers in listed order:
 ns.rackspace.com ns2.rackspace.com

Administrator:
 Domain Administrator no.valid.email@onlinenic.net 1111111111
 Internet Hosting
 3575 University St.
 Montreal,QC,Canada H3A2B1

Technical Contactor:
 Domain no.valid.email@onlinenic.net 1111111111
 Internet Hosting
 3575 University St.
 Montreal,QC,Canada 234567

Billing Contactor:
 Domain Administrator no.valid.email@onlinenic.net 1111111111
 Internet Hosting
 3575 University St.
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Domain: [dellinspiron.com](#)
Cache Date: 2005-07-06
Registrar: ONLINENIC, INC.

Registrant:

domain administrator no.valid.email@onlinenic.net 1111111111

Internet Hosting
3575 University St.
Montreal, QC, Canada H3A2B1

Domain Name:dellinspiron.com

Record last updated at 2004-11-28 20:24:31

Record created on 2001/12/2

Record expired on 2005/12/2

Domain servers in listed order:

ns.rackspace.com ns2.rackspace.com

Administrator:

3575 University St.
Montreal

QC,
Canada
H3A2B1

name:(Domain Administrator)

mail:(no.valid.email@onlinenic.net) 1111111111

Internet Hosting

Technical Contactor:

3575 University St.
Montreal

QC,
Canada
234567

name:(Domain)

mail:(no.valid.email@onlinenic.net) 1111111111

Internet Hosting

Billing Contactor:

3575 University St.
Montreal
QC,
Canada
H3A2B1

name:(Domain Administrator)
mail:(nateholey@emailadmin.net) 1111111111
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Domain: [dellsystem.com](#)

Cache Date: 2005-07-15

Registrar: ONLINENIC, INC.

Registrant:

domain administrator natehole@mail.dni.net 1111111111

Internet Hosting
3575 University St.
Montreal,QC,Canada H3A2B1

Domain Name:dellsystem.com

Record last updated at 2004-11-28 20:24:44

Record created on 2001/12/2

Record expired on 2005/12/2

Domain servers in listed order:

ns.rackspace.com ns2.rackspace.com

Administrator:

Name-- Domain Administrator

EMail-: (natehole@mail.dni.net)

tel --: 1111111111

org: Internet Hosting
3575 University St.
Montreal,QC,Canada H3A2B1

Technical Contact:

Name-- Domain

EMail-: (natehole@mail.dni.net)

tel --: 1111111111

org: Internet Hosting
3575 University St.
Montreal,QC,Canada 234567

Billing Contact:

Name-- Domain Administrator

EMail-: (natehole@mail.dni.net)

tel --: 1111111111

org: Internet Hosting

3575 University St.
Montreal, QC, Canada H3A 2B1



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Domain: [dellforme.com](#)
Cache Date: 2005-06-28
Registrar: ONLINENIC, INC.

Tab D

Registrant:

Dell Inc. postmaster@dellforme.com +1.5127283369

Dell Inc.
One Dell Way MS 8033
Round Rock,TX,US 78682

Domain Name:dellforme.com

Record last updated at 2005-06-23 14:45:47

Record created on 2001/11/8

Record expired on 2005/11/8

Domain servers in listed order:

ns2.rackspace.com ns.rackspace.com

Administrator:

Name-- Dell Inc.
EMail:- (postmaster@dellforme.com)
tel --: +1.5127283369
org: Dell Inc.
One Dell Way MS 8033
Round Rock,TX,US 78682

Technical Contact:

Name-- Dell Inc.
EMail:- (postmaster@dellforme.com)
tel --: +1.5127283369
org: Dell Inc.
One Dell Way MS 8033
Round Rock,TX,US 78682

Billing Contact:

Name-- Dell Inc.
EMail:- (postmaster@dellforme.com)
tel --: +1.5127283369
org: Dell Inc.

One Dell Way MS 8033
Round Rock, TX, US 78682



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Registrant :

Moniker Privacy Services postmaster@monikerprivacy.com +1.2422287730
Moniker Privacy Services
3575 University St.
St. Michael other BB 0000

Tab E

Domain Name: DELL4SALE.COM {dell4sale.com }

Registration Date : 2001-12-2

Expiration Date : 2005-12-2

Last update : 2004-11-28 20:24:25

Domain Name Server:

ns1.dns-diy.com
ns2.dns-diy.com

Administrator:

Moniker Privacy Services postmaster@monikerprivacy.com +1.2422287730
Moniker Privacy Services
3575 University St.
St. Michael other BB 0000

Technical Contact:

Moniker Privacy Services postmaster@monikerprivacy.com +1.2422287730
Moniker Privacy Services
3575 University St.
St. Michael other BB 0000

Billing Contact:

Moniker Privacy Services postmaster@monikerprivacy.com +1.2422287730
Moniker Privacy Services
3575 University St.
St. Michael other BB 0000

OnlineNIC Whois Search Results

Registrant :

Moniker Privacy Services postmaster@monikerprivacy.com +1.2422287730
Moniker Privacy Services
3575 University St.
St. Michael other BB 0000

Domain Name: DELLBUSINESS.COM {dellbusiness.com }

Registration Date : 2001-11-2

Expiration Date : 2005-11-2

Last update : 2004-10-20 18:15:11

Domain Name Server:

ns1.dns-diy.com
ns2.dns-diy.com

Administrator:

Moniker Privacy Services postmaster@monikerprivacy.com +1.2422287730
Moniker Privacy Services
3575 University St.
St. Michael other BB 0000

Technical Contact:

Moniker Privacy Services postmaster@monikerprivacy.com +1.2422287730
Moniker Privacy Services
3575 University St.
St. Michael other BB 0000

Billing Contact:

Moniker Privacy Services postmaster@monikerprivacy.com +1.2422287730
Moniker Privacy Services
3575 University St.
St. Michael other BB 0000

OnlineNIC Whois Search Results

Registrant :

Moniker Privacy Services postmaster@monikerprivacy.com +1.2422287730
Moniker Privacy Services
3575 University St.
St. Michael other BB 0000

Domain Name: DELLCOMP.COM {dellcomp.com }

Registration Date : 2001-12-2

Expiration Date : 2005-12-2

Last update : 2004-11-28 20:24:28

Domain Name Server:

ns1.dns-diy.com
ns2.dns-diy.com

Administrator:

Moniker Privacy Services postmaster@monikerprivacy.com +1.2422287730
Moniker Privacy Services
3575 University St.
St. Michael other BB 0000

Technical Contact:

Moniker Privacy Services postmaster@monikerprivacy.com +1.2422287730
Moniker Privacy Services
3575 University St.
St. Michael other BB 0000

Billing Contact:

Moniker Privacy Services postmaster@monikerprivacy.com +1.2422287730
Moniker Privacy Services
3575 University St.
St. Michael other BB 0000

OnlineNIC Whois Search Results

Registrant:

Moniker Privacy Services postmaster@monikerprivacy.com +1.2422287730
Moniker Privacy Services
3575 University St.
St. Michael other BB 0000

Domain Name: DELLFACTORYOUTLET.COM {dellfactoryoutlet.com }

Registration Date : 2001-10-3

Expiration Date : 2005-10-3

Last update :2004-08-23 14:45:59

Domain Name Server:

ns1.dns-diy.com
ns2.dns-diy.com

Administrator:

Moniker Privacy Services postmaster@monikerprivacy.com +1.2422287730
Moniker Privacy Services
3575 University St.
St. Michael other BB 0000

Technical Contact:

Moniker Privacy Services postmaster@monikerprivacy.com +1.2422287730
Moniker Privacy Services
3575 University St.
St. Michael other BB 0000

Billing Contact:

Moniker Privacy Services postmaster@monikerprivacy.com +1.2422287730
Moniker Privacy Services
3575 University St.
St. Michael other BB 0000

OnlineNIC Whois Search Results

Registrant :

Moniker Privacy Services postmaster@monikerprivacy.com +1.2422287730
Moniker Privacy Services
3575 University St.
St. Michael other BB 0000

Domain Name: DELLFORME.COM {dellforme.com }

Registration Date : 2001-11-8

Expiration Date : 2005-11-8

Last update : 2005-06-23 14:45:47

Domain Name Server:

ns1.dns-diy.com
ns2.dns-diy.com

Administrator:

Moniker Privacy Services postmaster@monikerprivacy.com +1.2422287730
Moniker Privacy Services
3575 University St.
St. Michael other BB 0000

Technical Contact:

Moniker Privacy Services postmaster@monikerprivacy.com +1.2422287730
Moniker Privacy Services
3575 University St.
St. Michael other BB 0000

Billing Contact:

Moniker Privacy Services postmaster@monikerprivacy.com +1.2422287730
Moniker Privacy Services
3575 University St.
St. Michael other BB 0000

OnlineNIC Whois Search Results

Registrant :

Moniker Privacy Services postmaster@monikerprivacy.com +1.2422287730
Moniker Privacy Services
3575 University St.
St. Michael other BB 0000

Domain Name: DELLHOME.COM {dellhome.com }

Registration Date : 2001-11-2

Expiration Date : 2005-11-2

Last update : 2004-10-20 18:15:16

Domain Name Server:

ns1.dns-diy.com
ns2.dns-diy.com

Administrator:

Moniker Privacy Services postmaster@monikerprivacy.com +1.2422287730
Moniker Privacy Services
3575 University St.
St. Michael other BB 0000

Technical Contact:

Moniker Privacy Services postmaster@monikerprivacy.com +1.2422287730
Moniker Privacy Services
3575 University St.
St. Michael other BB 0000

Billing Contact:

Moniker Privacy Services postmaster@monikerprivacy.com +1.2422287730
Moniker Privacy Services
3575 University St.
St. Michael other BB 0000

OnlineNIC Whois Search Results

Registrant :

Moniker Privacy Services postmaster@monikerprivacy.com +1.2422287730
Moniker Privacy Services
3575 University St.
St. Michael other BB 0000

Domain Name: DELLINSPIRON.COM {dellinspiron.com }

Registration Date : 2001-12-2

Expiration Date : 2005-12-2

Last update :2004-11-28 20:24:31

Domain Name Server:

ns1.dns-diy.com
ns2.dns-diy.com

Administrator:

Moniker Privacy Services postmaster@monikerprivacy.com +1.2422287730
Moniker Privacy Services
3575 University St.
St. Michael other BB 0000

Technical Contact:

Moniker Privacy Services postmaster@monikerprivacy.com +1.2422287730
Moniker Privacy Services
3575 University St.
St. Michael other BB 0000

Billing Contact:

Moniker Privacy Services postmaster@monikerprivacy.com +1.2422287730
Moniker Privacy Services
3575 University St.
St. Michael other BB 0000

OnlineNIC Whois Search Results

Registrant :

Moniker Privacy Services postmaster@monikerprivacy.com +1.2422287730
Moniker Privacy Services
3575 University St.
St. Michael other BB 0000

Domain Name: DELLL4ME.COM {dell4me.com }

Registration Date : 2002-12-23

Expiration Date : 2005-12-23

Last update : 2004-11-29 17:49:13

Domain Name Server:

ns1.dns-diy.com
ns2.dns-diy.com

Administrator:

Moniker Privacy Services postmaster@monikerprivacy.com +1.2422287730
Moniker Privacy Services
3575 University St.
St. Michael other BB 0000

Technical Contact:

Moniker Privacy Services postmaster@monikerprivacy.com +1.2422287730
Moniker Privacy Services
3575 University St.
St. Michael other BB 0000

Billing Contact:

Moniker Privacy Services postmaster@monikerprivacy.com +1.2422287730
Moniker Privacy Services
3575 University St.
St. Michael other BB 0000

OnlineNIC Whois Search Results

Registrant :

Moniker Privacy Services postmaster@monikerprivacy.com +1.2422287730
Moniker Privacy Services
3575 University St.
St. Michael other BB 0000

Domain Name: DELLSYSTEM.COM {dellsystem.com }

Registration Date : 2001-12-2

Expiration Date : 2005-12-2

Last update :2004-11-28 20:24:44

Domain Name Server:

ns1.dns-diy.com
ns2.dns-diy.com

Administrator:

Moniker Privacy Services postmaster@monikerprivacy.com +1.2422287730
Moniker Privacy Services
3575 University St.
St. Michael other BB 0000

Technical Contact:

Moniker Privacy Services postmaster@monikerprivacy.com +1.2422287730
Moniker Privacy Services
3575 University St.
St. Michael other BB 0000

Billing Contact:

Moniker Privacy Services postmaster@monikerprivacy.com +1.2422287730
Moniker Privacy Services
3575 University St.
St. Michael other BB 0000

OnlineNIC Whois Search Results

Registrant :

Moniker Privacy Services postmaster@monikerprivacy.com +1.2422287730
Moniker Privacy Services
3575 University St.
St. Michael other BB 0000

Domain Name: DELLWEBOUTLET.COM {dellweboutlet.com }

Registration Date : 2001-10-3

Expiration Date : 2005-10-3

Last update :2004-08-23 14:46:04

Domain Name Server:

ns1.dns-diy.com
ns2.dns-diy.com

Administrator:

Moniker Privacy Services postmaster@monikerprivacy.com +1.2422287730
Moniker Privacy Services
3575 University St.
St. Michael other BB 0000

Technical Contact:

Moniker Privacy Services postmaster@monikerprivacy.com +1.2422287730
Moniker Privacy Services
3575 University St.
St. Michael other BB 0000

Billing Contact:

Moniker Privacy Services postmaster@monikerprivacy.com +1.2422287730
Moniker Privacy Services
3575 University St.
St. Michael other BB 0000

OnlineNIC Whois Search Results

Registrant :

Moniker Privacy Services postmaster@monikerprivacy.com +1.2422287730
Moniker Privacy Services
3575 University St.
St. Michael other BB 0000

Domain Name: WWWDELLOUTLET.COM {wwwdelloutlet.com }

Registration Date : 2003-12-12

Expiration Date : 2005-12-12

Last update : 2004-11-29 17:35:17

Domain Name Server:

ns1.dns-diy.com
ns2.dns-diy.com

Administrator:

Moniker Privacy Services postmaster@monikerprivacy.com +1.2422287730
Moniker Privacy Services
3575 University St.
St. Michael other BB 0000

Technical Contact:

Moniker Privacy Services postmaster@monikerprivacy.com +1.2422287730
Moniker Privacy Services
3575 University St.
St. Michael other BB 0000

Billing Contact:

Moniker Privacy Services postmaster@monikerprivacy.com +1.2422287730
Moniker Privacy Services
3575 University St.
St. Michael other BB 0000



Domain Search > www.

GO

.com .net .org .biz .info .us .cn .name .com.tw .org.tw .

Whois monikerprivacy.com

Date Registered: 8/2/2005
 Date Modified: 8/2/2005
 Expiry Date: 8/2/2006
 DNS1: dns.Namescout.com
 DNS2: dns2.Namescout.com

Registrant

Moniker Privacy Services
 Needham's Point
 St. Michael
 0000
 BB

Administrative Contact

Moniker Privacy Services
 Needham's Point
 St. Michael
 BB
 0000
 12422287730
 postmaster@monikerprivacy.com

Technical Contact

Moniker Privacy Services
 Needham's Point
 St. Michael
 BB
 0000
 12422287730
 postmaster@monikerprivacy.com

Registrar: domainsatcost.ca



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OnlineNIC Whois Search Results

Registrant:

Tak G

Domain Name: WWWDELLRADIO.COM {wwwdellradio.com }

Registration Date : 2003-12-16

Expiration Date : 2005-12-16

Last update : 2004-06-10 22:05:14

Domain Name Server:

ns1.dns-diy.com
ns2.dns-diy.com

Administrator:

- contact@x-7.net

Technical Contact:

Billing Contact: